

HOUSE BILL No. 1666

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4.

Synopsis: Financing development in distressed counties. Authorizes the use of state tax revenue, exceeding a base allocation amount, to be used for payments of bonds issued, loans entered into, or leases entered into for an industrial development project in a distressed area. Provides that the same definition of distressed area be used for programs involving industrial development projects and the growth investment program fund. Appropriates the collected tax revenue to this use.

Effective: July 1, 2003.

Murphy, Hasler, Heim

January 21, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1666

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-10.9-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The definitions in
3 this chapter apply throughout this chapter, ~~and~~ IC 4-4-11, **and**
4 **IC 4-4-31.**

5 SECTION 2. IC 4-4-10.9-5.5 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. "Covered taxes" refers to**
8 **any of the following:**

9 (1) **The state gross retail tax imposed under IC 6-2.5-2-1 or**
10 **the use tax imposed under IC 6-2.5-3-2.**

11 (2) **An adjusted gross income tax imposed under IC 6-3-2-1.**

12 SECTION 3. IC 4-4-10.9-6.1 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2003]: **Sec. 6.1. "Distressed area" means a**
15 **county in which:**

16 (1) **the average annualized unemployment rate in each of the**
17 **five (5) calendar years immediately preceding the current**



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calendar year exceeded the statewide average annualized employment rate for each of the same calendar years; or

(2) the average annualized unemployment rate in the immediately preceding calendar year was at least double the statewide average annualized employment rate for the same period;

as determined by the department of workforce development and published in the report required by IC 4-4-31-1.

SECTION 4. IC 4-4-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) On July 1 of each year the department of commerce shall designate counties that were in economic stress in the preceding year. The determination under this section shall be based on:

- (1) the unemployment rate;
- (2) the employment growth rate;
- (3) the percentage decline in population; and
- (4) the percentage of families and individuals below the poverty level;

in each county in the preceding year. The department of commerce shall designate thirty (30) counties under this section from the list distributed to the department under IC 4-4-31-1 as having been in economic stress.

(b) Before August 1 of each year, the department of commerce shall:

- (1) notify the county legislative body if the county is a designated county under this section; and
- (2) prepare a list of the designated counties.

(c) A designation under this section expires June 30 of the year after the year in which the designation is made.

SECTION 5. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31. Funding of Industrial Development Projects in Distressed Counties

Sec. 1. After June 30 and before July 15 of each year, the department of workforce development shall provide the authority with a report listing the counties that qualify as distressed areas as of the date of the report. A copy of the report shall also be distributed to the department of commerce for use under IC 4-4-20.

Sec. 2. The authority may adopt a resolution designating an industrial development project as a tax allocation project if the

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1 industrial development project is located in an area that is
 2 designated in the latest report issued under section 1 of this chapter
 3 as a distressed area. The authority shall designate in the resolution
 4 the boundaries of the tax allocation project area. The resolution
 5 designating a tax allocation project must provide for:

6 (1) allocation of covered taxes attributable to a taxable event
 7 or covered taxes earned in the tax allocation project area to
 8 an industrial development project area fund established
 9 under section 4 of this chapter for the industrial development
 10 project;

11 (2) use of money in the industrial development project area
 12 fund solely for payments related to bonds, loans, or leases
 13 issued under this article to pay for the costs of the project;
 14 and

15 (3) termination of the industrial development project area
 16 fund upon payment of all obligations described in subdivision
 17 (2).

18 The authority shall incorporate the resolution adopted under this
 19 section into the financing agreement entered into between the
 20 developer of the industrial development project and the authority.

21 Sec. 3. A resolution adopted under section 2 of this chapter
 22 authorizes the allocation of the following covered taxes (in excess
 23 of the base allocation amount) to the industrial development
 24 project area fund under section 4 of this chapter for an industrial
 25 development project:

26 (1) Covered taxes incurred by a developer as a consequence
 27 of the development of the industrial development project,
 28 including gross retail taxes otherwise collectible by a retail
 29 merchant on goods or services provided to the developer for
 30 the industrial development project.

31 (2) Covered taxes that:

32 (A) are incurred by an individual or entity that leases,
 33 controls, uses, or operates in; and

34 (B) are attributable to a taxable event related to or earned
 35 through lease, control, use, or operations in;

36 facilities developed through an industrial development
 37 project, including gross retail taxes otherwise collectible by a
 38 retail merchant on goods or services provided to the
 39 individual or entity.

40 (3) Covered taxes that:

41 (A) are incurred by an individual or entity that is a
 42 partner, shareholder, or member of an entity that leases,

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controls, uses, or operates in; and
 (B) are attributable to a taxable event related to or earned
 through lease, control, use, or operations in;
 facilities developed through an industrial development
 project.

(4) Four percent (4%) of covered taxes on wages or other
 compensation earned by persons employed or providing
 services at facilities financed through an industrial
 development project, including services related to the
 construction, reconstruction, improvement, or repair of the
 facilities.

Sec. 4. The authority shall provide the department of state
 revenue and the auditor of state with a copy of any resolution
 adopted under section 2 of this chapter and the related financing
 agreement. Upon receipt of a copy of the resolution and the related
 financing agreement:

(1) the auditor of state shall establish an industrial
 development project area fund for the industrial development
 project;

(2) the department of state revenue shall compute the base
 allocation amount for the industrial development project
 area;

(3) the department of state revenue shall annually deposit the
 covered taxes subject to the resolution (to the extent that the
 amount exceeds the base allocation amount) in the industrial
 development project area fund for the industrial development
 project; and

(4) the auditor of state shall make payments from the
 industrial development project area fund in accordance with
 the resolution and the financing agreement for the industrial
 development project.

Sec. 5. The department of state revenue shall estimate the base
 allocation amount for the data available to the department and any
 other data supplied by the authority. The base allocation amount
 is the amount of covered taxes deposited from taxable events
 occurring in the tax allocation project area in the calendar year
 immediately preceding the calendar year in which the resolution
 is adopted under section 2 of this chapter.

Sec. 6. An industrial development project area fund established
 under section 4 of this chapter shall be treated as a trust fund.
 Money in an industrial development project area fund is annually
 appropriated for purposes of the industrial development project



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1 for which it was created and may be used only for the purposes
2 specified in the resolution and financing agreement for the
3 industrial development project. Money in the industrial
4 development project area fund at the end of a state fiscal year does
5 not revert to the state general fund. However, unencumbered
6 money remaining in an industrial development project area fund
7 upon payment of all obligations for which the fund was created
8 revert to the state general fund.

9 Sec. 7. The department of state revenue may adopt rules under
10 IC 4-22-2 and prescribe forms to carry out its responsibilities
11 under this chapter, including the establishment of requirements
12 concerning the filing of informational returns necessary to identify
13 tax receipts that are to be deposited in an industrial development
14 project area fund established under section 4 of this chapter.

15 SECTION 6. [EFFECTIVE JULY 1, 2003] (a) The department of
16 state revenue may adopt rules in the manner provided for the
17 adoption of emergency rules under IC 4-22-2-37.1 to carry out its
18 responsibilities under IC 4-4-31, as added by this act. A rule
19 adopted under this SECTION expires on the latest of the following:

20 (1) The date specified by the department of state revenue in a
21 rule.

22 (2) The date the department of state revenue adopts a
23 temporary or permanent rule to replace another rule adopted
24 under this SECTION.

25 (3) July 1, 2005.

26 (b) This SECTION expires July 2, 2005.

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